

Court Lets Stand Wiretap Suit Ruling

Post 4/20/76

The Supreme Court refused yesterday to decide whether government officials who act in "good faith" when authorizing a wiretap later found to be illegal must pay damages to the wiretap targets.

The justices let stand a U.S. Circuit Court decision which suggested that officials "may escape paying damages if they can demonstrate that they sincerely believed, the wiretap was proper."

The issue arose in a suit brought by members of the Jewish Defense League against former attorney general John N. Mitchell and nine present or former FBI employees.

The federal appeals court for the District of Columbia ruled that the wiretaps of the JDL office in New York City in 1970 and 1971 were illegal because Mitchell authorized them without obtaining a court warrant.

The court ruled that the government may use warrantless wiretaps only if there is evidence the wiretap target is a foreign agent or collaborator with a foreign government.

Attorneys for the JDL

members did not ask the Supreme Court to rule on the wiretap issue itself, but only one the question of damages. Federal law states that "a good faith reliance on a court order or legislative authorization shall constitute a complete defense" for government officials sued for damages.

The appellate court sent the case back to a trial judge for further proceedings on the damage question.

But the court's plurality opinion instructed the trial judge to deny the JDL members' damage claims if Mitchell and the FBI men can prove "they had a subjective good faith belief that it was constitutional to install warrantless wiretaps under the circumstances of this case, and that this belief was itself reasonable."

Attorneys for the JDL members argued that these instructions reach beyond the intent of the law.

In other action, the court:
 • Agreed to review the powers of the Environmental Protection Agency to regulate waste discharges into rivers and streams
 • Eight major chemical companies challenged EPA's authority to set maximum

levels of discharge for sulfuric acid plants. They argued that the agency could issue only broad guidelines—not the kind of specific nationwide maximum tolerance standards that have been laid down by EPA administrator Russell Train.

Other issues include whether U.S. district courts or courts of appeal should review EPA regulations.

• Held that automobile manufacturers have no constitutional right to challenge safety recall orders without risk of fines.

The justices affirmed without comment a three-judge lower court decision upholding imposition of civil fines against the Ford Motor Co. for noncompliance with recall orders under the National Motor Vehicle and Safety Act of 1966.

• Agreed to hear an appeal, supported by 36 states, from a decision striking down California's "truth in packaging" law.

The justices will hear arguments on a ruling of the U.S. Circuit Court in San Francisco that the California law must give way before federal laws governing accurate weight in food packages.

The ruling stemmed from a suit by General Mills, the Pillsbury Co. and Seaboard Allied Milling Corp. challenging the California law.

• Declined to decide whether two federal civil weapons against private individuals may be used as criminal against women faculty members.

Helen Cohen, an assistant professor in the department of psychology and education, brought suit against Illinois Institute of Technology after she was denied promotion.

Alleging that she was discriminated against because she is a woman, Cohen sued the Institute for damages under two Reconstruction-era civil rights laws that make it illegal for anyone acting on behalf of a government agency or for two or more persons to conspire to

deprive a citizen of his rights.

Supreme Court Cases Today

The Supreme Court meets today from 10 a.m. to 3 p.m. with the following cases scheduled for oral argument:

Case No. 75-344—U.S. vs. Hopkins. Government employment. Discharge. Suit for damages. Question of whether government for improper discharge of military exchange employee. (33 mins.)
 Case No. 75-348—Federal Energy Administration vs. Statutory Authority Inc. President to impose license fees as energy import quotas in interest of power to enforce license fee system. (1 hr.)
 Case No. 75-302—Byrum vs. Ivesca County. Mining. State taxation. Indiana Tax on mobile oil pump or engine on reservation. (1 hr.)
 Case No. 75-349—McDonald vs. Santa Fe. Employment. Federal Civil Rights Act. Charging racial discrimination against white workers as well as Negroes. Title VII of 1964 Civil Rights Act. (1 hr.)
 Case No. 75-351 & 75-352—Fitzpatrick vs. Bitzer. Government employment. Federal court remedy against discharge. Eleventh Amendment bar to award of back pay and legal expenses. (1 hr. 15 mins.)